

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GEORGE M. DUDEK and U.S. POSTAL SERVICE,  
POST OFFICE, Linden, N.J.

*Docket No. 97-100; Submitted on the Record;  
Issued September 29, 1998*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant sustained an injury in the performance of duty on September 25, 1995, as alleged.

On September 27, 1995 appellant, a letter carrier, filed a claim asserting that his left heel became tender after work: "When I left work Monday evening [September 25, 1995]; I went home [m]y left heel by late evening was tender and it hurt to put pressure on it to walk." He also indicated, however, that the injury took place at the corner of Knopf Street and Miner Terrace at the end of the day. On the back of the claim form, his supervisor stated that appellant did not know how, why, when or where the injury occurred, adding: "[He] thinks it happened on Mon[day]."

A medical report dated September 27, 1995, two days after the date of the alleged injury, indicated that appellant had experienced heel pain the previous week and that there was no trauma: "Since Friday, September 22. Postal worker end of work sudden sharp pain in heel. Hurts too much to walk. Patient used warm soaks. Negative trauma." Narrative medical reports dated March 12 and April 26, 1996 stated that appellant's plantar fasciitis was directly caused by his employment as a letter carrier and that there was a strong correlation between his condition and his chosen employment.

In a decision dated June 12, 1996, the Office of Workers' Compensation Programs properly found that it was not in a position to be able to affirm that an injury occurred on September 25, 1995, as alleged, because of inconsistencies in the factual record.

The Board finds that the evidence of record is insufficient to establish that appellant sustained an injury in the performance of duty on September 25, 1995, as alleged.

A person who claims benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing by a preponderance of the reliable, probative and substantial evidence the essential elements of his claim, including the fact that he sustained an injury at the time, place and in the manner alleged.<sup>2</sup> To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. In determining whether a *prima facie* case has been established, such circumstances as late notification of injury, lack of confirmation of injury and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on a claimant's statements. The employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.<sup>3</sup>

Such inconsistencies exist in the present case. First, on his claim form appellant indicated that his left heel became tender after work, that it became tender by evening. He also indicated that the injury took place at the corner of Knopf Street and Miner Terrace at the end of the day. On the back of the claim form, his supervisor stated that appellant did not know how, why, when or where the injury occurred, adding: "[He] thinks it happened on Mon[day]." This evidence supports that appellant was uncertain about the injury when he filed his claim form and casts some doubt on the validity of his claim.

Second, none of the medical evidence of record relates the history of injury given by appellant. Although appellant would later state with some certainty that his injury occurred on September 25, 1995 when he stepped down off the last step of 400 Knopf Street, near the corner of Miner Terrace, he apparently failed to give such a history to any of his health care providers. The medical report dated September 27, 1995, only two days after the date of the alleged injury, indicated that appellant had heel pain the previous week ("since Friday September 22") and that there was no trauma. Unless otherwise explained, such a contemporaneous history of injury appears inconsistent with appellant's claim.

The Board finds that there is sufficient uncertainty surrounding the onset of appellant's left heel pain that the factual evidence of record fails to establish that he experienced a traumatic event or incident occurring at the time, place and in the manner alleged. Further, without the history of injury related by appellant, the two narrative medical reports of record are of little probative value in establishing that he sustained the traumatic injury alleged.<sup>4</sup> For these reasons, the Board will affirm the Office's June 12, 1996 decision.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Henry W.B. Stanford*, 36 ECAB 160 (1984); *Samuel L. Licker*, 4 ECAB 458 (1951).

<sup>3</sup> *Carmen Dickerson*, 36 ECAB 409 (1985); *Joseph A. Fournier*, 35 ECAB 1175 (1984).

<sup>4</sup> Medical conclusions based on inaccurate or incomplete histories are of little probative value. *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete); *see generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

The narrative reports of March 12 and April 26, 1996 tend to support that appellant's plantar fasciitis arose from his employment as a letter carrier and suggest that the condition developed over a period of time greater than a single workday. If appellant wishes to pursue a claim for such an occupational disease or illness, he may file with his district Office the appropriate claim form, Form CA-2 and submit appropriate medical opinion evidence to support his claim. The Board notes that the two narrative reports presently of record do not fully explain how appellant's employment as a letter carrier caused or contributed to his diagnosed condition. Such a reasoned medical explanation is necessary to establish the essential element of causal relationship.

The June 12, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
September 29, 1998

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member